

## UNITED STATES DISTRICT COURT

for the  
District of New Mexico**FILED**UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICOIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)2005 Pontiac Sunfire  
License Plate Number 8848FR  
VIN 3G2JB12F65S205350

JUL 08 2021

Case No. 21-MR-926

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

2005 Pontiac Sunfire, License Plate Number 8848FR, VIN 3G2JB12F65S205350, located at FBI Farmington Resident Agency, 215 W. Elm Street, Farmington, NM

located in the \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

See Attachment B of Affidavit

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

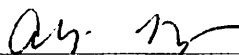
- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 USC 1153	Offenses committed in Indian country
18 USC 1112	Involuntary manslaughter

The application is based on these facts:  
See Attached Affidavit hereby incorporated by reference as if fully restated herein.

- ☐ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



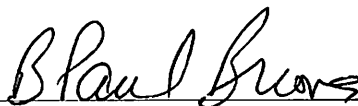
Applicant's signature

Alyson Berry, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 7-8-2021



Judge's signature

City and state: Farmington, NM

B. Paul Briones, US Magistrate Judge

Printed name and title

KN/AUSA

NEW MEXICO

ALBUQUERQUE, NEW MEXICO

State of New Mexico )

County of San Juan )

AFFIDAVIT

I, Alyson Berry being duly sworn, hereby, depose and state as follows:

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been employed in that capacity since July 2020. I am currently assigned to the Albuquerque Division, Farmington Resident Agency of the FBI, and have primary investigative responsibility in violent crimes such as robbery, assault, crimes involving children and homicide occurring in Indian Country.
2. The information set forth in this affidavit has been derived from an investigation conducted by the Farmington Resident Agency of the FBI, the Criminal Investigations with the Navajo Nation, the Navajo Police Department, and the New Mexico State Police (NMSP).
3. On July 1, 2021, the Farmington Resident Agency of the FBI was notified by the Criminal Investigations with the Navajo Nation of a single vehicle crash that occurred on the Navajo Indian Reservation earlier that same day. Three individuals, a female and her two juvenile grandchildren, were in the vehicle when the driver lost control. The vehicle rolled several times, and the occupants were ejected from the vehicle. The driver and two passengers were flown to UNM Hospital in Albuquerque, New Mexico. Evelyn Bustamante, referred to herein as "Bustamante," was driving the vehicle. She was treated for broken bones and other injuries from the crash. The first passenger of the vehicle, identified with initials of A.T. and a year of birth of 2016, referred to herein as "Jane Doe 1," was killed as a result of the crash. The second passenger, identified with initials R.T. and a year of birth of 2018, referred to herein as "Jane Doe 2," is in critical condition.
4. Blood tests of Bustamante conducted at the hospital showed the presence of

methamphetamine. During interviews conducted with law enforcement after the accident, Bustamante disclosed she smoked methamphetamine regularly, including the day of the accident. She also did not secure the children into the vehicle with child safety seats or buckles.

5. The vehicle involved in the crash, a maroon 2005 Pontiac Sunfire, bearing New Mexico license plate number 8848FR, vehicle identification number (VIN) 3G2JB12F65S205350, registered to Evelyn Bustamante, (referred to herein as the "Target vehicle"), was seized by law enforcement and towed to the Farmington Office of the FBI and placed in secured storage.

6. On July 1, 2021, New Mexico State Police (NMSP) Officer Stan Lundy with the Crash Reconstruction Unit (CRU) arrived at the scene and conducted an analysis and reconstruction of the scene. Officer Lundy said that the Target Vehicle is equipped with an Event Data Recorder (EDR) that may contain data from the crash including information such as pre-impact speed, throttle position, engine RPM, brake usage, and seatbelt usage. The NMSP has equipment to gain access to this device and the data therein.

7. Based on conversations with Officer Lundy, the EDR in the Target Vehicle needs to be retained. Your affiant understands that the data retrieved from the EDR can be used in assisting with the investigation and can determine information regarding the vehicle's operation at the time of the crash, including but not limited to possible speed of the vehicle at the time of the crash.

8. Based on the information provided in this affidavit, your affiant believes that evidence items in the form of data from the EDR are believed to be located in a maroon 2005 Pontiac Sunfire, bearing New Mexico license plate number 8848FR, vehicle identification number (VIN) 3G2JB12F65S205350. Additionally, your affiant believes that evidence of a crime can be found by conducting a search for physical items related to drug or alcohol consumption, including but not limited to illegal substances, drug paraphernalia, bottles, receipts of purchase, cans and other items known to hold drugs or alcoholic beverages within the same vehicle. It is also believed that documents indicating who possessed and used the vehicle are contained within and that photographs of both the interior and exterior of the vehicle will assist in the investigation.

9. This search warrant is for the purpose of searching the Target Vehicle for physical items

described in paragraph 10 and securing the information held within the EDR of the Target Vehicle to include processing and analyzing data extracted from the EDR.

10. The incident under investigation occurred within the exterior boundaries of the Navajo Indian Reservation. Bustamante, Jane Doe 1, and Jane Doe 2 are registered members of the Navajo Nation. Based upon the information received thus far, there is probable cause to believe there was a violation of Title 18, United States Code, Section 1112 and 1153, involuntary manslaughter committed in Indian Country, and that evidence of such crimes may be contained in the Target Vehicle.

11. Supervisory Assistant United States Attorney Kyle Nayback, District of New Mexico, reviewed and approved the affidavit requesting approval to search the Target Vehicle.

12. I swear that this information is true and correct to the best of my knowledge and belief.

Affiant Ay 17  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn before me  
on this 8 day of July, 2021

Blair Ba  
United States Magistrate Judge



**ATTACHMENT A**

**PROPERTY TO BE SEARCHED**

- 1) A maroon 2005 Pontiac Sunfire, bearing New Mexico license plate number 8848FR, vehicle identification number (VIN) 3G2JB12F65S205350, located at the FBI Office located at 215 W. Elm St., Farmington, NM.

**ATTACHMENT B**

**PROPERTY TO BE SEIZED**

- 1) Data retrieved from the Event Data Recorder;
- 2) Physical items related to drug or alcohol consumption, including but not limited to illegal substances, drug paraphernalia, bottles, receipts of purchase, cans and other items known to hold drugs or alcoholic beverages and documents pertaining to the possession and use of the vehicle;
- 3) Photographs of interior and exterior of vehicle.